

TITLE 45.—RAILROADS

Chapter 2.—LIABILITY FOR INJURIES TO EMPLOYEES

§ 51. Liability of common carriers by railroad, in interstate or foreign commerce, for injuries to employees from negligence; definition of employees. Every common carrier by railroad while engaging in commerce between any of the several States or Territories, or between any of the States and Territories, or between the District of Columbia and any of the States or Territories, or between the District of Columbia or any of the States or Territories and any foreign nation or nations, shall be liable in damages to any person suffering injury while he is employed by such carrier in such commerce, or, in case of the death of such employee, to his or her personal representative, for the benefit of the surviving widow or husband and children of such employee; and, if none, then of such employee's parents; and, if none, then of the next of kin dependent upon such employee, for such injury or death resulting in whole or in part from the negligence of any of the officers, agents, or employees of such carrier, or by reason of any defect or insufficiency, due to its negligence, in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment.

Any employee of a carrier, any part of whose duties as such employee shall be the furtherance of interstate or foreign commerce; or shall, in any way directly or closely and substantially, affect such commerce as above set forth shall, for the purposes of this Act,¹ be considered as being employed by such carrier in such commerce and shall be considered as entitled to the benefits of this Act¹ and of an Act entitled "An Act relating to the liability of common carriers by railroad to their employees in certain cases"² (approved April 22, 1908), as the same has been or may hereafter be amended. (As amended Aug. 11, 1939, c. 685, § 1, 53 Stat. 1404.)

¹ See sections 51, 54, 56, 60 as amended and added by Act Aug. 11, 1939, cited to text.

² See sections 51-59 of this title.

§ 54. Assumption of risks of employment. That in any action brought against any common carrier under or by virtue of any of the provisions of this chapter to recover damages for injuries to, or the death of, any of its employees, such employee shall not be held to have assumed the risks of his employment in any case where such injury or death resulted in whole or in part from the negligence of any of the officers, agents, or employees of such carrier; and no employee shall be held to have assumed the risks of his employment in any case where the violation by such common carrier of any statute enacted for the safety of employees contributed to the injury or death of such employee. (As amended Aug. 11, 1939, c. 685, § 1, 53 Stat. 1404.)

§ 56. Actions; limitation; concurrent jurisdiction of courts; removal of case in State court. No action shall be maintained under this chapter unless commenced within three years from the day the cause of action accrued.

Under this chapter an action may be brought in a district court of the United States, in the district of the residence of the defendant, or in which the cause of action arose, or in which the defendant shall be doing business at the time of commencing such action. The jurisdiction of the courts of the United States under this chapter shall be concurrent with that of the courts of the several States, and no case arising under this chapter and brought in any State court of compe-

tent jurisdiction shall be removed to any court of the United States. (As amended Aug. 11, 1939, c. 685, § 2, 52 Stat. 1404.)

§ 60. Penalty for suppression of voluntary information incident to accidents; separability clause. Any contract, rule, regulation, or device whatsoever, the purpose, intent, or effect of which shall be to prevent employees of any common carrier from furnishing voluntarily information to a person in interest as to the facts incident to the injury or death of any employee, shall be void, and whoever, by threat, intimidation, order, rule, contract, regulation, or device whatsoever, shall attempt to prevent any person from furnishing voluntarily such information to a person in interest, or whoever discharges or otherwise disciplines or attempts to discipline any employee for furnishing voluntarily such information to a person in interest, shall, upon conviction thereof, be punished by a fine of not more than \$1,000 or imprisoned for not more than one year, or by both such fine and imprisonment, for each offense: *Provided*, That nothing herein contained shall be construed to void any contract, rule, or regulation with respect to any information contained in the files of the carrier, or other privileged or confidential reports.

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and the applicability of such provision to other persons and circumstances shall not be affected thereby. (Aug. 11, 1939, c. 685, § 3, 53 Stat. 1404.)

Chapter 5.—GOVERNMENT-AIDED RAILROADS

§ 88. District court to issue mandamus to compel operation of road.

Federal Rules of Civil Procedure

Application of Rules of Civil Procedure, see Rule 81, following Title 28, Judicial Code and Judiciary, § 723c.

Effect of Rules on this section, see note by Advisory Committee under Rule 81.

Chapter 8.—RAILWAY LABOR ACT

§ 151. Definitions; Railway Labor Act.

Supreme Court of the District of Columbia was redesignated "district court of the United States for the District of Columbia" by Act June 25, 1936, c. 804, 49 Stat. 1921.

§ 153. National Railroad Adjustment Board.

Federal Rules of Civil Procedure

Application of Rules of Civil Procedure, see Rules 54, 81, following Title 28, Judicial Code and Judiciary, § 723c.

Effect of Rules on this section, see notes by Advisory Committee under Rules 54 and 81.

§ 157. Arbitration.

Federal Rules of Civil Procedure

Subpoena, see Rules of Civil Procedure, Rule 45, following Title 28, Judicial Code and Judiciary, § 723c.

§ 159. Award and judgment thereon; effect of chapter on individual employee.

Federal Rules of Civil Procedure

Application of Rules of Civil Procedure, see Rule 81, following Title 28, Judicial Code and Judiciary, § 723c.

CARRIERS BY AIR

§ 181. Application of sections 151, 152, 154 to 163 to carriers by air. All of the provisions of sections 151, 152, 154 to 163 of this title are extended to and

shall cover every common carrier by air engaged in interstate or foreign commerce, and every carrier by air transporting mail for or under contract with the United States Government, and every air pilot or other person who performs any work as an employee or subordinate official of such carrier or carriers, subject to its or their continuing authority to supervise and direct the manner of rendition of his service. (May 20, 1926, c. 347, § 201, as added Apr. 10, 1936, c. 166, 49 Stat. 1189.)

§ 182. Same; duties, penalties, benefits and privileges. The duties, requirements, penalties, benefits, and privileges prescribed and established by the provisions of sections 151, 152 and 154 to 163 of this title shall apply to said carriers by air and their employees in the same manner and to the same extent as though such carriers and their employees were specifically included within the definition of "carrier" and "employee", respectively, in section 151. (May 20, 1926, c. 347, § 202, as added Apr. 10, 1936, c. 166, 49 Stat. 1189.)

§ 183. Disputes within jurisdiction of Mediation Board. The parties or either party to a dispute between an employee or a group of employees and a carrier or carriers by air may invoke the services of the National Mediation Board and the jurisdiction of said Mediation Board is extended to any of the following cases:

(a) A dispute concerning changes in rates of pay, rules, or working conditions not adjusted by the parties in conference.

(b) Any other dispute not referable to an adjustment board, as hereinafter provided, and not adjusted in conference between the parties, or where conferences are refused.

The National Mediation Board may proffer its services in case any labor emergency is found by it to exist at any time.

The services of the Mediation Board may be invoked in a case under sections 181 to 188 of this title in the same manner and to the same extent as are the disputes covered by section 155 of this title. (May 20, 1926, c. 347, § 203, as added Apr. 10, 1936, c. 166, 49 Stat. 1189.)

§ 184. System, group or regional boards of adjustment. The disputes between an employee or group of employees and a carrier or carriers by air growing out of grievances, or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions, including cases pending and unadjusted on April 10, 1936 before the National Labor Relations Board, shall be handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes; but, failing to reach an adjustment in this manner, the disputes may be referred by petition of the parties or by either party to an appropriate adjustment board, as hereinafter provided, with a full statement of the facts and supporting data bearing upon the disputes.

It shall be the duty of every carrier and of its employees, acting through their representatives, selected in accordance with the provisions of sections 181 to 188 of this title, to establish a board of adjustment of jurisdiction not exceeding the jurisdiction which may be lawfully exercised by system, group, or regional boards of adjustment, under the authority of section 153 of this title.

Such boards of adjustment may be established by agreement between employees and carriers either on any individual carrier, or system, or group of carriers by air and any class or classes of its or their employees; or pending the establishment of a permanent National Board of Adjustment as hereinafter provided. Nothing in sections 151 to 163 and 181 to 188 of this title shall prevent said carriers by air, or any class or classes of their employees, both acting through their representatives selected in accordance with provisions of sections 181 to 188 of this title, from mutually agreeing to the establishment of a National Board of Adjustment of temporary duration and of similarly

limited jurisdiction. (May 20, 1926, c. 347, § 204, as added Apr. 10, 1936, c. 166, 49 Stat. 1189.)

§ 185. National Air Transport Adjustment Board. When, in the judgment of the National Mediation Board, it shall be necessary to have a permanent national board of adjustment in order to provide for the prompt and orderly settlement of disputes between said carriers by air, or any of them, and its or their employees, growing out of grievances or out of the interpretation or application of agreements between said carriers by air or any of them, and any class or classes of its or their employees, covering rates of pay, rules, or working conditions, the National Mediation Board is hereby empowered and directed, by its order duly made, published, and served, to direct the said carriers by air and such labor organizations of their employees, national in scope, as have been or may be recognized in accordance with the provisions of sections 151 to 163 and 181 to 188 of this title, to select and designate four representatives who shall constitute a board which shall be known as the "National Air Transport Adjustment Board." Two members of said National Air Transport Adjustment Board shall be selected by said carriers by air and two members by the said labor organizations of the employees, within thirty days after the date of the order of the National Mediation Board, in the manner and by the procedure prescribed by section 153 of this title for the selection and designation of members of the National Railroad Adjustment Board. The National Air Transport Adjustment Board shall meet within forty days after the date of the order of the National Mediation Board directing the selection and designation of its members and shall organize and adopt rules for conducting its proceedings, in the manner prescribed in section 153 of this title. Vacancies in membership or office shall be filled, members shall be appointed in case of failure of the carriers or of labor organizations of the employees to select and designate representatives, members of the National Air Transport Adjustment Board shall be compensated, hearings shall be held, findings and awards made, stated, served, and enforced, and the number and compensation of any necessary assistants shall be determined and the compensation of such employees shall be paid, all in the same manner and to the same extent as provided with reference to the National Railroad Adjustment Board by section 153 of this title. The powers and duties prescribed and established by the provisions of section 153 of this title with reference to the National Railroad Adjustment Board and the several divisions thereof are hereby conferred upon and shall be exercised and performed in like manner and to the same extent by the said National Air Transport Adjustment Board, not exceeding, however, the jurisdiction conferred upon said National Air Transport Adjustment Board by the provisions of sections 181 to 188 of this title. From and after the organization of the National Air Transport Adjustment Board, if any system, group, or regional board of adjustment established by any carrier or carriers by air and any class or classes of its or their employees is not satisfactory to either party thereto, the said party, upon ninety days' notice to the other party, may elect to come under the jurisdiction of the National Air Transport Adjustment Board. (May 20, 1926, c. 347, § 205, as added Apr. 10, 1936, c. 166, 49 Stat. 1190.)

Federal Rules of Civil Procedure

Application of Rules of Civil Procedure, see Rule 81, following Title 28, Judicial Code and Judiciary, § 723c.

Effect of Rules on this section, see note by Advisory Committee under Rule 81.

§ 186. Pending cases before Labor Relations Board transferred to Mediation Board. All cases referred to the National Labor Relations Board, or over which the National Labor Relations Board shall have taken jurisdiction, involving any dispute arising from any cause between any common carrier by air engaged in interstate or foreign commerce or any carrier by air transporting mail for or under contract with the United

States Government, and employees of such carrier or carriers, and unsettled on April 10, 1936, shall be handed to conclusion by the Mediation Board. The books, records, and papers of the National Labor Relations Board and of the National Labor Board pertinent to such case or cases, whether settled or unsettled, shall be transferred to the custody of the National Mediation Board. (May 20, 1926, c. 347, § 206, as added Apr. 10, 1936, c. 166, 49 Stat. 1191.)

§ 187. Separability clause. If any provision of sections 181 to 188 of this title or application thereof to any person or circumstance is held invalid, the remainder of such sections and the application of such provision to other persons or circumstances shall not be affected thereby. (May 20, 1926, c. 347, § 207, as added Apr. 10, 1936, c. 166, 49 Stat. 1191.)

§ 188. Appropriation authorized. There is hereby authorized to be appropriated such sums as may be necessary for expenditure by the Mediation Board in carrying out the provisions of sections 181 to 187 of this title. (May 20, 1926, c. 347, § 208, as added Apr. 10, 1936, c. 166, 49 Stat. 1191.)

Chapter 9.—RETIREMENT OF RAILROAD EMPLOYEES

RAILROAD RETIREMENT ACT OF 1934

§§ 201–214. [Unconstitutional.]

These sections were declared unconstitutional by the Supreme Court of the United States in *Railroad Retirement Board v. Alton R. Co.*, Dist. of Col. 1935, 55 S. Ct. 758, 295 U. S. 330, 79 L. Ed. 1468.

Provisions relating to refund of sums paid by railroads and other carriers of the United States under Railroad Retirement Act of 1934, were contained in Act June 1, 1938, c. 315, §§ 1, 2, 52 Stat. 608.

RAILROAD RETIREMENT ACT OF 1935

§§ 215–228. [Amended, see sections 228a–228r.]

The Railroad Retirement Act of Aug. 29, 1935, c. 812, 49 Stat. 967–973, set out as sections 215–228 of this title, was amended in its entirety by Act of June 24, 1937, c. 382, Part I, § 1, 50 Stat. 307, designated as the "Railroad Retirement Act of 1937," to read as now set out in sections 228a–228r. Section 204 of Title II of the Act of 1937, 50 Stat. 319, provided as follows: "The Railroad Retirement Act of 1935 shall continue in force and effect with respect to the rights of individuals granted annuities prior to the date of the enactment of this Act."

Sections 201, 202, 203, 205, of Title II of the Act of June 24, 1937, c. 382, 50 Stat. 318, 319, read as follows:

"§ 201. The Act entitled 'An Act to establish a retirement system for employees of carriers subject to the Interstate Commerce Act, and for other purposes,' approved August 29, 1935, as in force prior to its amendment by part I of this Act, may be cited as the 'Railroad Retirement Act of 1935'; and such Act, as amended by part I of this Act, may be cited as the 'Railroad Retirement Act of 1937.'"

"§ 202. The claims of individuals (and the claims of spouses and next of kin of such individuals) who, prior to the date of the enactment of this Act, relinquished all rights to return to the service of a carrier as defined in the Railroad Retirement Act of 1935 or ceased to be employee representatives as defined therein, and became eligible for annuities under such Act, shall be adjudicated by the Board in the same manner and with the same effect as if this Act had not been enacted: *Provided, however*, That with respect to any such claims no reduction shall be made in any annuity certified after the date of the enactment of this Act because of continuance in service after age sixty-five: *And provided further*, That service rendered prior to August 29, 1935, to a company which on that date was a carrier as defined in the Railroad Retirement Act of 1935, shall be included in the service period in connection with any annuity certified in whole or in part by the Board after the date of the enactment of this Act, irrespective of whether at the time such service was rendered such company was a carrier as defined in the Railroad Retirement Act of 1935; and service rendered prior to August 29, 1935, to any express company, sleeping-car company, or carrier by railroad which was a predecessor of a company which on that date was a carrier as defined in the Railroad Retirement Act of 1935, shall also be included in the service period in connection with any annuity certified in whole or in part by the Board after the date of the enactment of this Act, irrespective of whether at the time such service was rendered such predecessor was a carrier as defined in the Railroad Retirement Act of 1935: *And provided further*, That annuity payments due an individual under the Railroad Retirement Act of 1935 but not yet paid at death shall be paid to a surviving spouse if such spouse is entitled to an annuity under an election made pursuant to the provisions of section 5 of such Act; otherwise they shall be paid to such person or persons as the deceased may have designated by a writing filed with the

Board prior to his death, or if there be no designation, to the legal representative of the deceased.

"§ 203. Any individual who, prior to the date of the enactment of this Act, relinquished all rights to return to the service of a carrier as defined in the Railroad Retirement Act of 1935 or ceased to be an employee representative as defined in such Act, and who is not eligible for an annuity under that Act but who would have been eligible for an annuity under the Railroad Retirement Act of 1937 had such Act been in force from an [sic] after August 29, 1935, shall have his right to an annuity adjudicated under the Railroad Retirement Act of 1937: *Provided, however*, That no such annuity shall begin prior to the date of the enactment of this Act."

"§ 205. The enactment of this Act shall have no effect on the status, tenure of office, or compensation of the present members, officers, and employees of the Railroad Retirement Board; except that individuals who have had experience in railroad service shall be retained in the employ of the Board, whether or not qualified under the civil service laws and rules, if in the judgment of the Board they possess the qualifications necessary for the proper discharge of the duties of the positions which they are holding."

RAILROAD RETIREMENT ACT OF 1937

§ 228a. Definitions. For the purposes of this Act—

(a) The term "employer" means any carrier (as defined in subsection (m) of this section), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer: *Provided, however*, That the term "employer" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Board, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term "employer" shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies and other associations, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation; and railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of chapter 8 of this title, as amended, and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitution and bylaws of such organizations.

(b) The term "employee" means (1) any individual in the service of one or more employers for compensation, (2) any individual who is in the employment relation to one or more employers, and (3) an employee representative. The term "employee" shall include an employee of a local lodge or division defined as an employer in subsection (a) only if he was in the service of or in the employment relation to a carrier on or after the enactment date. The term "employee representative" means any officer or official representative of a railway labor organization other than a labor organization included in the term "employer" as defined in subsection (a) who before or after the enactment date was in the service of an employer as defined in subsection (a) and who is duly authorized and designated to represent employees in accordance with chapter 8 of this title, as amended, and any individual who is regularly assigned to or